

MT LEGISLATIVE HISTORY

Chapter 273 19 71

Bill (H) 79 S _____

Original bill & hist. ____C

H. Committee on Townships & Counties

S. Committee on Local Government

Hearing Date(s) Jan 14 ☒ C

Hearing Date(s) Feb 13 ☒ C

Jan 21 ☒ C

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Date Out _____ ☐ C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

Federal union, a basic right under the Constitution is for free and easy passage between the states within our union. Mr. Starnhagen questioned the reasonableness of going to the expense of passing this legislation when our Supreme Court has so recently declared like legislation unconstitutional.

In closing Rep Giesick said that tax is not referred to in the bill and is not a tax but a service charge for the use of the facilities. The decision of the Supreme Court relates to the boarding tax which was presented in the last session. Service charge is much the same as a charge for swimming pools, zoos, etc. for the use of the facilities.

HOUSE BILL 79: Rep. Herschel M. Robbins, District 12A, Chief Sponsor.

PROPOSERS:

Burt Hurwitz, State Assoc. of Co. Commissioners
Harold M. Price - State Dept. of Planning & Economic Development
D. H. Siewert - Montana Chamber of Commerce
John Morrison, Jr. - Mont. Society of Engineers
Frank Dunkle - Mont. Fish & Game Department
Harold A. Fryslie - League of Cities & Towns
Citizens Advisory Committee
Toni A. Scharff - Self
Robert E. Champion - Assoc. of Mont. Planning Boards
Charles E. Petaja - Mont. Assoc. of City-County Planning Boards
Eva Lachenmaier - A.A.U.W.
Marty Crennen - Architects
O. M. Heland - Soil Conservation Commission
Mrs. Harry G. Bugbee - League of Women Voters
Rep. Harrison Fagg, District No. 9
Rep. Dorothy Bradley, District No. 15
Rep. Henry Cox, District No. 9

Representative Robbins, Chief Sponsor, said this bill is a result of a resolution in the House in the 1969 Session setting up a Study Commission on local government. It amends our existing planning laws. These are enabling laws that would enable local government to plan and implement. Local government is not required to use them--permissive only. They make up a framework of laws that are flexible and adaptable to wide needs in cities and counties.

Proponents: This is very good legislation in that it is permissive. It removed the one mill levy limit which restricted most boards from doing anything because it wasn't enough money in the smaller counties. This allows for planning for the entire county and also for multi-county planning. The Association of County Commissioners wished to go on record in favor of this bill.

Harold M. Price spoke for Senator Keenan, Chairman of the Legislative Council Committee on Local Government, who was unable to attend.

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They have been involved the last twelve months developing this bill. The present law we have has been studied by the project staff and legal consultants. We are severely limited in not being able to plan county wide and multi-county wide. This legislation would allow for comprehensive planning. In order for planning to be effective, planning and zoning must occur before the problem arises. Planning is a practical approach to some of our environment problems facing us today.

Robert E. Champion, Association of Montana Planning Boards, said most of the growth has occurred outside of the cities. This legislation provides for rural representation where they are involved. County and regional planning boards advise--implementation is up to the City Commission or the County Commissioners. Recommends the passage of this legislation.

Dan Mizner, League of Cities and Towns feels this legislation is needed and pointed out that with the one mill levy some counties might have only \$500 and some might have \$15,000. They levy should be up to the County Commissioners.

D. H. Siewert: The Montana Chamber of Commerce wants it on the record that they endorse and urge passage of this legislation.

EXECUTIVE SESSION:

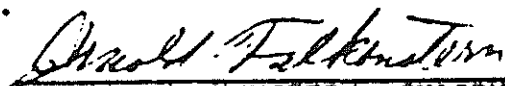
HOUSE BILL NO. 44: Mr. Hodges moved a DO PASS; motion was seconded. Committee members felt that this is not the right way to get the money and this is discriminatory legislation. Air transportation is a benefit to all in the state and not just the users, eg. doctors and professional people coming in to render services to Montana citizens. It was feared that if this legislation were passed, next year a railroad usage or bus usage fee would be proposed.

Mr. Lombardi moved the Question: Six opposed, three ayes--motion failed.

Rep. Sverdsten moved H.B. 44 DO NOT PASS; motion was seconded. Motion carried. HOUSE BILL 44 - DO NOT PASS.

Mr. Lombardi moved that House Bill 79 be passed for the day. Motion carried. H.B. 79 passed for the day.

Meeting adjourned at 12:50 p.m.


ARNOLD FALKENSTERN, CHAIRMAN


Marie Hensleigh, Secretary

HOUSE BILL 198 continued

PROPOSERS:

Dave Fisher, Montana Vol Firemen's Assoc.
John O. Thomas, Silverbow Vol Fire Council
John L. Riley, State Vol. Firemen's Assoc.
Al Sampson, Mont. State Firemen's Assoc.
Wallace Stephens, Montana State Firemen's Assoc.
B. A. Ellis, Mont. State Vol. Firemen

Dave Fisher stated that the Montana Volunteer Firemen's Association drafted the bill to augment what they already have. They found out that they could have rendered 19 years and 9 months service and if they moved from the locality and could not enter another fire district, they would lose all pension and entitlements.

Proponents felt this is a dangerous occupation and urged passage of this legislation. This is in line with PERS requirements.

In closing Chief Sponsor Marks stated that he had done some checking with Mr. Sasek of PERS who is custodian of the Volunteer Fire Department Pension Funds and was assured that their fund, with the interest earned, would be adequate to take care of this. Only unincorporated areas or rural fire departments are involved here.

EXECUTIVE SESSION: Consideration of bills

HOUSE BILL 79: hearing held the previous meeting. Rep. Hodges moved the bill be reported out with a Do Pass. Mr. Lombardi seconded the motion. Motion carried. DO PASS.

HOUSE BILL 198: Rep. Mehrens moved Do Pass, seconded by Rep. Lombardi. Motion carried. DO PASS.

HOUSE BILL 225: Rep. Kendall moved Do Pass, Rep. Mehrens seconded the motion. Motion carried. DO PASS.

House Bill 226: Rep. Perry moved Do Not Pass, Rep. Lombardi seconded the motion. Motion carried. DO NOT PASS.

The meeting adjourned at 11:15 a.m.



ARNOLD FALKENSTERN, CHRMN.


Marie Hensleigh, Secretary

Feb 13

-- Mr. Mizner was then excused and thanked for his testimony.

VISITORS

Attending the committee meeting were the Boy Scouts from Butte. The tropp was here for the entire day sitting in on various committees and learning about the legislative process.

HB 6

Senator Northey moved that House Bill 6 BE CONCURRED IN. Senator Goodheart seconded the motion. MOTION CARRIED.

HB 96

It was decided that House Bill 96 would be held for consideration until a later date.

HB 225

Senator Bertsche moved that House Bill 225 BE CONCURRED IN. Senator Northey seconded the motion. MOTION CARRIED.

HB 258

Senator Lowe moved that House Bill 258 BE CONCURRED IN. Senator Northey seconded the motion. MOTION CARRIED.

HJR 38

Senator Bertsche moved that House Joint Resolution DO PASS. Senator Northey seconded the motion. MOTION CARRIED.



HB 79

Senator Drake moved that House Bill 79 BE CONCURRED IN. Senator Bertsche seconded the motion. MOTION CARRIED.

There being no further discussion, the meeting was adjourned.

Senator Thiessen, Chairman

of the state auditor shall be considered to be a department head and a department, respectively.

Terms of office.

(3) Members of the board before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of board members remain as prescribed by law."

Repealing clause.

Section 2. Section 27-427, R.C.M. 1947, is repealed.

Repealing clause.

Section 3. Sections 59-901 and 59-902, R.C.M. 1947, are repealed.

Intent of act.

Section 4. It is not the intent of this act to repeal or amend any laws relating to functions performed by an agency, unless specifically provided in this act or unless there is an irreconcilable conflict between this act and those laws.

Severability clause.

Section 5. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective dates.

Section 6. Chapters 1 and 21 of Section 1 of this act and Sections 4 and 5 of this act are effective upon its passage and approval. Chapters 2 through 20 of section 1 of this act are effective upon the date the governor signs an executive order implementing the chapter or on December 31, 1972, whichever occurs first. The governor shall file the executive order with the secretary of state on the day the order is signed. The secretary of state shall file and record the order and send a copy of the order to each addressee on his official mailing list for the Revised Codes of Montana and to each addressee on the mailing list of the publisher of the Revised Codes of Montana. Section 2 of this act is effective when Chapter 4 of Section 1 of this act is effective, and Section 3 is effective when Chapter 2 of Section 1 of this act is effective.

Approved March 10, 1971

CHAPTER NO. 273

An Act Providing for Building Restrictions and Zoning and Subdivision Regulations by Cities, Towns and

Counties; Providing for Boards of Adjustment and the Duties Thereof; Providing for City, County and City-County Planning Boards; Providing Definitions; Providing Qualifications for Members of Boards; Providing for a Master Plan and a Jurisdictional Area; Providing for Plats of Subdivisions; Providing for Planning and Zoning Districts; Amending Sections 11-2702, 11-3801, 11-3810, 11-3811, 11-3812, 11-3815, 11-3825, 11-3842, 11-3843, 11-3844, 11-3846, 11-3847, 11-3848, 11-3851, R.C.M., 1947, and Adding New Section 11-3830.2, and Amending Sections 16-4101, 16-4702, 16-4703, 16-4705, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2702, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2702. **Districts for effecting building restrictions.**

(1) For any or all of said purposes the local city or town council or other legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Local authority may designate zoning districts.

Regulate construction or land.

(2) *The local city or town council, or other legislative body which has adopted a master plan pursuant to Title 11, chapter 38 may extend the application of its zoning or subdivision regulations or both beyond its limits in any direction, but not in a county which has adopted such regulations within the contemplated area; provided that a city of the first class as defined in section 11-201 of this code may not extend the application of its zoning or subdivision regulations or both more than three (3) miles beyond its limits, a city of the second class may not so extend more than two (2) miles beyond its limits, and a city or town of the third class may not so extend more than one (1) mile beyond its limits. Provided, further, that where two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise*

Council may extend zoning or subdivision regulations.

Exception. Limitations.

Boundary line to avoid conflict.

Enforcement.

the full powers conferred by this section, then the extension of zoning or subdivision regulations or both by these cities shall terminate at a boundary line agreed upon by the cities so concerned. Any city or town council or other legislative body, may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county board adopts a master plan pursuant to Title 11, chapter 38 and accompanying zoning or subdivision resolutions or both which include the area. As a prerequisite to the exercise of this power, a city planning board must be increased to include two (2) representatives from the unincorporated area which is to be affected. These representatives shall be appointed by the board of county commissioners. Such representation, however, shall cease when the county board adopts a master plan pursuant to Title 11, chapter 38 and accompanying zoning or subdivision resolutions or both which include the area.

Increased city planning board.

Exclusion.

A city or town, which has as its plan of government the commission-manager plan, shall be excluded from the provision of section 11-2702 (2) which defines extra-territorial authority to review proposed subdivisions."

Amending clause.

Section 2. Section 11-3801, R.C.M. 1947, is amended to read as follows:

Authority to create planning board.

"11-3801. City planning boards, county planning boards and city-county planning boards authorized — purpose of act. *The governing body of any city or town, the governing bodies of more than one city or town, or the governing body of any county, or any combination thereof, may create a planning board in order to promote the orderly development of its governmental units and its environs. It is the object of this legislation to encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that highway systems be carefully planned, that new community centers grow only with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry, and business be recognized in future growth; that residential areas provide healthy surroundings for family life; and that the growth of the community be commensurate with and promotive of the efficient and economical use of public funds.*

Purpose of legislation.

In accomplishing this abjective, it is the intent of this legislation that the planning board shall serve in an advisory capacity to presently established boards and officials.

Planning board serves in advisory capacity.

Before a county planning board may be created, the board of county commissioners shall, by resolution, give public notice of their intent to create such planning board and of a public hearing thereon, by publication of notice of time and place of hearing on such resolution in each newspaper published in the county not less than fifteen (15) nor more than thirty (30) days prior to the date of hearing. A resolution creating a county planning board shall not be adopted by the board of county commissioners if disapproved in writing, not later than sixty (60) days after such hearing, by a majority of the qualified electors of the county residing outside the limits of the jurisdictional area of an existing city-county planning board established pursuant to section 11-3830 and outside the incorporated limits of each city and town in the county."

Resolution.

Hearing. Publication of notice.

Section 3. Section 11-3810, R.C.M. 1947, is amended to read as follows:

Amending clause.

"11-3810. County planning boards and city-county planning boards — members — term of officer members and citizen members. 1. A city-county planning board shall consist of not less than nine (9) members to be appointed as follows:

City-county board—nine members appointed.

a. Two (2) official members to be appointed by the board of county commissioners who may in the discretion of the board of county commissioners be employed by or hold public office in the county.

b. Two (2) official members to be appointed by the city council who may in the discretion of the city council be employed by or hold public office in the city.

c. Two (2) citizen members to be appointed by the mayor of the city.

d. Two (2) citizen members to be appointed by the board of county commissioners. The two (2) members may reside outside the city limits but within the jurisdictional area of the planning board.

e. The ninth member shall be selected by the eight (8) officers and citizen members hereinabove provided for

with the consent and approval of the board of county commissioners and the city council.

County board—five members appointed. 2. *County planning boards shall consist of not less than five (5) members appointed by the board of county commissioners.*

Additional members. *In the event that any city or town subsequently becomes represented on the county planning board pursuant to section 11-3815, additional members of the planning board representing such cities or towns shall be appointed by the respective city councils.*

Terms of office. 3. The terms of the members who are officers of any governmental unit represented on the board shall be co-extensive with their respective terms of office to which they have been elected or appointed; the terms of the other members shall be two (2) years, except that the terms of the first members appointed shall be fixed by agreement and rule of the governing bodies represented on the board for one (1) or two (2) years in order that a minimum number of terms shall expire in any year."

Amending clause. Section 4. Section 11-3811, R.C.M. 1947, is amended to read as follows:

Vacancies. "11-3811. **Vacancies.** Vacancies occurring on the board of official members, and by death or resignation of citizen members, shall be filled by the governing bodies having appointed them for the unexpired term.

Vacancies occurring in citizen members on the city-county planning board at the end of a term shall be filled alternately by the mayor and the board of county commissioners represented on the board, commencing with the mayor. Vacancies occurring in citizen members on the county planning board at the end of a term shall be filled by the board of county commissioners. In the event more than one (1) city is represented on a board the representation and appointments to be made by the respective cities and counties shall be by agreement and rule of the board."

Amending clause. Section 5. Section 11-3812, R.C.M. 1947, is amended to read as follows:

Qualifications. "11-3812. **Citizen members of county planning board and city-county planning board — qualifications.** The citizen members of the county planning board shall be resident freeholders in the area over which the planning

board has jurisdiction. The citizen members of the city-county planning board shall be resident freeholders in the area over which the planning board has jurisdiction, provided, however, that at least two (2) of such members shall be resident freeholders in the area, if any, outside the city limits over which the planning board has jurisdiction."

Section 6. Section 11-3815, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3815. **Representation of additional cities, towns, or county on existing boards.** Any city, county, or town, or any combination thereof wishing to be represented upon an existing planning board, may by agreement of the governing body or bodies then represented upon the board, obtain representation thereon and share in the membership duties and costs of the board upon a basis agreeable to the governing body or bodies creating the board.

Increase in representation—other cities and counties.

The membership as well as the jurisdictional area of any board may be increased to provide for representation and planning of any additional cities, counties, or towns seeking representation.

Increase in jurisdictional area.

Any city, county, or town which becomes represented upon an existing planning board pursuant to this section may appropriate funds for expenses necessary to cover the costs of such representation. The governing bodies of any city or county so being represented may levy on all property which is added to the jurisdictional area of an existing board by such representation a tax for planning board purposes under procedures set forth in Title 16, chapter 19, R.C.M. 1947, or Title 11, chapter 14, R.C.M. 1947, whichever is applicable; provided such tax shall not exceed the maximum levy authorized in Section 11-3825, R.C.M. 1947."

Appropriations.

Levy.

Limitation.

Section 7. Section 11-3825, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3825. **Funds for operation — tax levy authority.** 1. After a city council has by ordinance, a board of county commissioners has, by ordinance and resolution, or a city council and board of county commissioners have, by ordinance and resolution, created a planning board, the

Funds for operation.

governing bodies represented upon such board may appropriate funds to carry out the duties of the planning board.

Proportion of expenditures.

2. When a planning board has been created by agreement of more than one (1) governmental unit, the governing bodies of the governmental units which have created the board shall agree upon the proportion of expenditures to be borne by each such unit and may budget and appropriate the funds necessary for the respective shares thus agreed upon.

Levy not to exceed two mills.

Limitation.

3. The governing body of any city or town represented upon a planning board may levy a tax upon the property located within such city or town not to exceed *two (2) mills* for planning board purposes, under procedures set forth in Title 11, chapter 14, R.C.M. 1947, *provided such tax shall not exceed the maximum levy authorized in Section 11-3825, paragraph 6, R.C.M. 1947.*

Board may create planning district.

Levy.

Limitation.

4. When a city-county planning board has been established, the board of county commissioners may create a planning district which shall include that property within the jurisdictional areas as established pursuant to section 11-3830, which lies outside the limits of any incorporated cities and towns; and the board of county commissioners may levy on all property located within such planning district a tax for planning board purposes, under procedures set forth in Title 16, chapter 19, R.C.M. 1947, *provided such tax shall not exceed the maximum levy authorized in section 11-3825, paragraph 6, R.C.M. 1947.*

Board may create planning district.

Levy not to exceed two mills.

Limitations on tax levies—cities.

5. When a county planning board has been established, the board of county commissioners may create a planning district which shall include that property which lies outside the limits of the jurisdictional area as established pursuant to section 11-3830 or as modified pursuant to section 11-3830.2 in counties where a city-county planning board has been established as well as that property which lies outside the limits of any incorporated cities and towns; and the board of county commissioners may levy on all property located within such planning district a tax not to exceed *two (2) mills* for planning board purposes under procedures set forth in Title 16, chapter 19, R.C.M. 1947.

6. The tax levy for planning board purposes shall be limited as follows: a city of the first class, as defined in section 11-201 of this code, may levy a tax not to exceed

two (2) mills; a city of the second class may levy a tax not to exceed four (4) mills; a city of the third class may levy a tax not to exceed six (6) mills and a town may levy a tax not to exceed six (6) mills.

A county of the first class, as defined in section 16-2419 of this code, may levy a tax not to exceed two (2) mills; a county of the second class may levy a tax not to exceed three (3) mills; a county of the third class may levy a tax not to exceed four (4) mills; a county of the fourth class may levy a tax not to exceed five (5) mills and counties of the fifth, sixth and seventh classes may levy a tax not to exceed six (6) mills."

Counties.

Section 8. There is added to Title 11, chapter 38, R.C.M. 1947, a new section which is to read as follows:

11-3830.2. Jurisdictional area — county planning board. (1) The board of county commissioners shall by resolution establish the jurisdictional area of the county planning board. The jurisdictional area shall include the area which is both outside the incorporated limits of any city in the county as well as outside the jurisdictional area of an existing city-county planning board established pursuant to section 11-3830. Should any city or town become represented on the county planning board pursuant to section 11-3815, the jurisdictional area of the county planning board shall be extended to include those cities or towns.

Resolution to establish jurisdictional area.

(2) The planning board, after the approval of the jurisdictional area by the board of county commissioners, shall file in the office of the clerk and recorder a map showing the boundaries of the jurisdictional area. The boundaries may be revised from time to time by resolution of the board of county commissioners. Such revised boundaries shall be shown upon a map which shall be filed as provided in this section. The area included in such map shall constitute the area over which the planning board shall have advisory jurisdiction.

Map of boundaries filed with county clerk and recorder.

Revised boundaries.

(3) In case an unincorporated area is within the potential jurisdiction of more than one planning board, then the boundary between the conflicting areas shall be determined by agreement between the planning boards involved, with the approval of their respective governing bodies. Any map showing the boundary line so agreed

Boundary line to avoid conflict.

Map filed.

upon and approved shall be filed as provided in this section and thereafter shall fix the limit of territorial jurisdiction with respect to planning boards.

(4) In case the jurisdictional area of a city-county planning board, which is established subsequent to the establishment of a county planning board, is potentially within the jurisdiction of the county planning board, then the property outside any incorporated city between the conflicting areas shall be determined by agreement between the planning boards involved with the approval of the respective governing bodies and a map showing the boundary lines so agreed upon shall be filed as provided in this section and thereafter shall fix the limits of the territorial jurisdiction of the respective planning boards.

Boundary line.

Map filed.

Amending clause.

Section 9. Section 11-3842, R.C.M. 1947, is amended to read as follows:

"11-3842. Plats of subdivisions — approval by planning board. (1) Where a master plan has been approved, the city council may by ordinance or the board of county commissioners may by resolution require subdivision plats to conform to the provisions of the master plan. Certified copies of such ordinance shall be filed with the city or town clerk and with the county clerk and recorder of the county.

Subdivision plats shall conform to master plan.

(2) Thereafter a plat involving lands within the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board which shall make a report to the city council advising as to compliance or noncompliance of the plat with the master plan. The city council shall have the final authority to approve the filing of such plat.

Approval of plat prior to filing—lands within corporate limits.

(3) Thereafter a plat involving lands outside the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board which shall make a report to the board of county commissioners advising as to compliance or noncompliance of the plat with the master plan. The board of county commissioners shall have the final authority to approve the filing of such plat.

Approval of plat prior to filing—lands outside corporate limits.

(4) Nothing herein contained shall be interpreted to limit the present powers of the city or county governments, but shall be an additional requirement before any plat may be filed of record or entitled to be recorded."

Additional requirement.

Section 10. Section 11-3843, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3843. Application for approval of plat. (1) A person desiring the approval of a plat involving lands within the jurisdictional area of a planning board covered by a master plan after the passage of such ordinance or resolution shall submit a written application for a certificate together with a copy of the proposed plat to the planning board having jurisdiction. Application.

(2) When the board tentatively finds that the application conforms to the requirements of the master plan or subdivision ordinance, it shall set a date for a hearing, notify the applicant in writing and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed plat." Hearing.
Notice.

Section 11. Section 11-3844, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3844. Determination of whether application for approval should be granted. In determining whether an application for approval shall be recommended the board shall determine if the plat provides for: Determinations for approval.

1. Co-ordination of subdivision streets with existing and planned streets or highways.

2. Co-ordination with an extension of facilities included in the master plan.

3. Establishment of minimum width, depth, and area of lots within the projected subdivision.

4. Fair allocations of areas for streets, parks, and utilities."

Section 12. Section 11-3846, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3846. Approval or disapproval of application for plat. After hearing and within forty-five (45) days after application for approval of the plat, the board shall recommend approval or disapproval to the city council or board of county commissioners, whichever is applicable. If the board recommends disapproval, it shall set forth its reasons in a communication to the city council or the board of county commissioners and provide the applicant with a copy." Decision of board within 45 days.

Reasons for disapproval.

Amending clause. Section 13. Section 11-3847, R.C.M. 1947, is amended to read as follows:

Uniform fees. "11-3847. **Fees.** The city council or the board of county commissioners shall establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed plats. An applicant shall pay the specified fee at the time of filing his application. These fees shall be credited to a fund established by the governing bodies for the planning board."

Amending clause. Section 14. Section 11-3848, R.C.M. 1947, is amended to read as follows:

Plat has no legal effect until approved. "11-3848. **Filing and recording of plat involving lands covered by master plan and ordinance without effect unless approved by city council or board of county commissioners.** After a master plan and an ordinance or resolution containing provisions for subdivision control and the approval of plats have been adopted and a certified copy of the ordinance or resolution has been filed with the county clerk and recorder, the filing and recording of a plat covered by the master plan and an ordinance or resolution shall be without legal effect unless approved by the city council or the board of county commissioners, whichever is applicable."

Amending clause. Section 15. Section 11-3851, R.C.M. 1947, is amended to read as follows:

Review by district court. Writ of certiorari. "11-3851. **Appeals.** A decision of a city council or by the board of county commissioners rejecting a proposed subdivision plat may be reviewed by the district court upon application for a writ of certiorari. The application shall specify the grounds upon which it alleges the illegality of the action of the city council or the board of county commissioners."

Amending clause. Section 16. Section 16-4101, R.C.M. 1947, is amended to read as follows:

Public interest or convenience—petition. Planning and zoning district—five member commission. "16-4101. **Planning and zoning districts — commission — creation.** Whenever the public interest or convenience may require, and upon petition of sixty per centum (60%) of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create a planning and zoning district, and to appoint a commission consisting of five (5) members. The commission is to consist of the three

(3) county commissioners, the county surveyor and the county assessor. Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses, and shall be residents of the county in which they serve. The commission hereby is authorized to appoint necessary employees and fix their compensation with the approval of the board of county commissioners, to select a chairman to serve for one (1) year, to appoint a secretary who shall keep permanent and complete records of its proceedings, and to adopt rules governing the transaction of its business. The finances necessary for the transaction of the planning and zoning commission's business and to pay the expenses of the employees and justified expenses of the members of the board shall be paid from a levy of not to exceed one (1) mill on the taxable valuation of the real property within such district, provided that no such planning or zoning district may be created in an area which has been zoned by an incorporated city pursuant to section 11-2702 (2)."

Section 17, Section 16-4702, R.C.M., 1947, is amended to read as follows:

"16-4702. **Recommendations by county planning board and city-county planning board.** The board of county commissioners shall require the county planning board and the city-county planning board to recommend boundaries and appropriate regulations for the various zoning districts. The county planning board and the city-county planning board shall make written reports of their recommendations to the board of county commissioners, but such recommendations shall be advisory only. This section shall apply to either the county planning board or the city-county planning board where only one of these planning boards has been established."

Section 18. Section 16-4703, R.C.M. 1947, is amended to read as follows:

"16-4703. **Establishment of districts — regulations for land use — scope — uniformity.** (1) Within the unincorporated portions of a jurisdictional area which has been established under provisions of section 11-3830 or section 11-3830.2, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or parts of the jurisdictional area.

Expenses.

Residents of county.

Employees.

Compensation.

Chairman.

Records.

Rules.

Finances.

Levy not to exceed one mill.

Limitation.

Amending clause.

Planning boards shall recommend boundaries—regulations.

Advisory reports.

Amending clause

Zoning of unincorporated portions.

Regulations.

(2) Within some such zoning districts it shall be lawful and within others it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades, industries or callings.

Building and space specifications.

(3) Within each district the height and bulk of future buildings and the area of the yards, courts and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

Uniform regulations.

(4) All such regulations shall be uniform for each class or kind of buildings throughout a district, but the regulations in one (1) district may not differ from those in other districts."

Amending clause.

Section 19. Section 16-4705, R.C.M. 1947, is amended to read as follows:

Required procedures.

"16-4705. **Procedure for adoption of regulations and boundaries.** The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

Notice of public hearing—publication.

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district shall be published once a week for two (2) weeks in a newspaper of general circulation within the county. The notice shall state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) the time and place of the public hearing;

(d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

Opportunity to be heard.

(2) At the public hearing the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

Review.

(3) After the public hearing the board of county commissioners shall review the proposals of the planning board and shall make such revisions or amendments as it may deem proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

Resolution of intention.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for two (2) weeks in a newspaper of general circulation within the county. The notice shall state:

Publication—notice of passage.

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(d) that for thirty (30) days after first publication of this notice the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last completed assessment roll of the county.

Protests.

(6) Within thirty (30) days after the expiration of the protest period the board of county commissioners may in its discretion adopt the resolution creating the zoning district and/or establishing the zoning regulations for the district; but if forty (40) percent of the freeholders within such district whose names appear on the last completed assessment roll shall have protested the establishment of the district or adoption of the regulations, the board of county commissioners shall not adopt the resolution and no further zoning resolution shall be proposed for the district for a period of one (1) year."

Adoption.

40 per cent protest defeats adoption.

Section 20. There is added to Title 16, chapter 47, R.C.M. 1947, a new section which is to read as follows:

16-4711. If a county is conducting, or in good faith intends to conduct studies within a reasonable time, or has held or is holding a hearing for the purpose of considering a master plan or zoning regulations or an amendment, extension, or addition to either pursuant to this chapter, the board of county commissioners in order to promote the public health, safety, morals, and general welfare may adopt as an emergency measure a temporary interim zoning map or temporary interim zoning regula-

Board may adopt interim zoning map or regulation.

One year
limitation.

Extension—one
year.

Severability clause.

tion, the purpose of which shall be to classify and regulate uses and related matters as constitutes the emergency. Such interim resolution shall be limited to one (1) year from the date it becomes effective. The board of county commissioners may extend such interim resolution for one (1) year, but not more than one (1) such extension may be made.

Section 21. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 10, 1971

CHAPTER NO. 274

An Act to Require the Enrichment of Flour and Bread to Meet Certain Standards of Vitamin and Mineral Content; and to Fix Penalties for Violation of This Act.

WHEREAS, there exists in the diets in this country a widespread deficiency of certain food ingredients essential to the health and well-being of the people, it is necessary and advisable to protect so far as may be possible to the health of the people of this state against such deficiency by providing for the enrichment of certain kinds of flour and bread, to increase the content of such essential ingredients, normally present in wheat. In the accomplishment of such purposes, it is necessary and advisable to promote uniformity in the laws applicable to interstate and to intrastate shipments of such foods.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.
"Flour."

Section 1. When used in this act, unless the context otherwise requires: (1) "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as:

- (a) white flour, also known as wheat flour or plain flour;
- (b) bromated flour;

(c) self-rising flour, also known as self-rising white flour or self-rising wheat flour, and

(d) phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, roll, bun or biscuit baking, such as specialty cake and pancake flours.

(2) "White bread" means any bread made with flour as defined in (1) above whether baked in a pan or on a hearth or screen, and which is commonly known or usually represented and sold as white bread, including vienna bread, french bread, and italian bread. "White bread."

(3) "Rolls" includes plain white rolls and buns of the semi-bread dough type, namely: soft rolls, such as hamburger rolls, hot dog rolls, parker house rolls; and hard rolls, such as vienna rolls, kaiser rolls, yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls. "Rolls."

(4) "Executive officer" means the executive officer of the health department of the state of Montana. "Executive officer."

(5) "Board" means the board of health of the state of Montana. "Board."

(6) "Department" means the department of health of the state of Montana. "Department."

(7) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls. "Person."

Section 2. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour unless the following vitamins and minerals are contained in each pound of such flour: not less than 2.0 milligrams and not more than 2.5 milligrams of thiamine; not less than 1.2 milligrams and not more than 1.5 milligrams of riboflavin; not less than 16.0 milligrams and not more than 20.0 milligrams of niacin or niacin-amide; not less than 13.0 milligrams and not more than 16.5 milligrams of assimilable iron (Fe); except in the case of self-rising flour which in addition to the above ingredients shall

Required vitamins
and minerals
per pound of flour.